HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No. 19885 of 2003

Dated 18th July 2007

Between:

Y.Mahender Goud S/o.Kasimaiah

…Petitioner

and

The District Collector (Panchayat Raj),
Mahaboobnagar & another

…Respondents

HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No. 19885 of 2003

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O R D E R:

The petitioner was elected as Sarpanch of Koilkonda village, in the year 1995. On the allegation of not accounting for certain funds of the Grampanchayat, he was removed from the office on 18.12.1999. In the appeal preferred by him, the Commissioner of Panchayat Raj, passed an order dated 14.3.2000, setting aside the order of removal. Subsequently, the petitioner was elected as MPTC of Sri Venkatapur village, and thereafter, as President of Mandal Parishad, Koilkonda.

The petitioner states that one Mr.Anjaneyulu filed O.P.No.35 of 2001, against him, in the court of Senior Civil Judge, Mahaboobnagar, challenging his election, and during the course of trial of the petition, an order dated 22.12.2001 said to have been passed by the 1st respondent, holding the petitioner liable to pay a sum of Rs.22,616/-, was filed. Petitioner states that he was not served with a copy of that order, and soon after coming to know about it, he filed the writ petition.

It is alleged that the 1st respondent issued a show-cause notice, dated 6.10.2001, and on receiving the same, he submitted an explanation on 18.10.2001. Petitioner contends that neither any notice of hearing was given to him, nor the explanation offered by him was considered, while passing the impugned order.

On behalf of respondents, a counter affidavit is filed. It is stated that the explanation offered by the petitioner to the show-cause notice was taken into account, and the impugned order is not passed, in accordance with law.

Heard Ms.P.Nivedita, learned counsel appearing for Sri P.Venkat Ram Reddy, learned counsel for the petitioner, and learned Government Pleader for Panchayat Raj.

The petitioner was issued a show-cause notice, dated 6.10.2001. It was stated that the petitioner has misappropriated an amount of Rs.22,616/- and he was required to pay the same, within 15 days from the date of receipt. The particulars thereof were mentioned in the annexure. The petitioner submitted explanation within the stipulated time. He denied his liability and made a mention about the order of his removal and the order passed by the Appellate Authority. The 1st respondent, ultimately, passed the impugned order on 22.12.2001. Though reference is made to the explanation, dated 18.10.2001, submitted by the petitioner, no discussion was undertaken about it, except an observation that the explanation is not convincing.

The show-cause notice itself does not accord with law. It proceeded, as though the petitioner had misappropriated a sum of Rs.22,616/- and he was required to pay the amount. It needs to be observed that the petitioner was removed from the office of Sarpanch,

by alleging that he did not account for certain funds of the Grampanchayat. Aggrieved thereby, the petitioner filed an appeal before the Commissioner of Panchayat Raj. In his order, dated 14.3.2000, the Commissioner recorded a finding to the effect that the allegation against the petitioner, about the misappropriation, or not accounting for the funds, is not correct.

Show-cause notice issued to the petitioner is silent, about the details of the allegation as to misappropriation. If that related to the same amount, that constituted the basis for removal of the petitioner, it stands set aside, in view of the order passed by the Commissioner. On the other hand, if the amount related to a different transaction, or account, a determination ought to have taken place, before the petitioner was required to pay the amount. The whole procedure adopted by the 1st respondent cannot be countenanced in law.

Therefore, the writ petition is allowed, and the impugned order is set aside. It is, however, made clear that it shall be open to the 1st respondent, to initiate such proceedings, as are permissible in law, against the petitioner, if necessary basis exists. There shall be no order as to costs.

18th July 2007

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